

**AN ORDINANCE BY
FINANCE/EXECUTIVE COMMITTEE**

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ENGAGE ON BEHALF OF THE CITY OF ATLANTA TO ESTABLISH AND IMPLEMENT A COST NEUTRAL DEFERRED RETIREMENT OPTION RETIREMENT PLAN AS AN ADDITIONAL BENEFIT FOR THE MEMBERS OF THE CITY OF ATLANTA FIREFIGHTER'S PENSION FUND AND THE CITY OF ATLANTA POLICE OFFICERS PENSION FUND; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta desires to implement a tool in order to better manage changes in the composition of its workforce; and

WHEREAS, the ability to better anticipate reductions of experienced personnel enables the administration to anticipate workforce replacement costs; and

WHEREAS, the City Administration believes that a Deferred Retirement Option Plan ("DROP") will enhance the City's ability to manage its public safety workforce; and

WHEREAS, the replacement costs of experienced personnel is heightened in the Police Department and the Fire Department; and

WHEREAS, any implemented DROP, as modeled in Exhibit A, hereto attached, must be actuarially determined to be cost neutral to the City of Atlanta; and

WHEREAS, the City of Atlanta desires to implement a DROP as part of the pension benefits offered to the members of the City of Atlanta Police Officers Pension Fund and the City of Atlanta Firefighters' Pension Fund.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1: That new sections 6-334 and 6-483 of the Atlanta City Code of Ordinances are respectively created as reflected in Exhibits A and B attached hereto, in order to amend the City of Atlanta Police Officers and the City of Atlanta Firefighters Pension Benefits as to incorporate a DROP within the existing pension benefits for members of the City of Atlanta Police Officers Pension Fund and the City of Atlanta Firefighters Pension Fund.

SECTION 2: That any DROP incorporated within the existing benefits provided by Sections 6-334 and 6-483 of the Atlanta City Code of Ordinances shall be determined cost neutral by the respective plans' actuary.

SECTION 3: That any modifications to the DROP in its final form conform to the parameters set forth in this legislation.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

EXHIBIT A

CITY OF ATLANTA, FIREFIGHTER DEFERRED RETIREMENT OPTION PLAN

SECTION 483.1

DEFINITIONS

Defined terms in section 483.1 are applicable only to section 483 in its entirety.

- (a) **“Beneficiary”** shall mean any person, persons or entity entitled to receive a benefit under the Pension Fund in the event of the Participant’s death.
- (b) **“Board”** shall mean the Board of the City of Atlanta, Firefighters Pension Fund.
- (c) **“City”** shall mean the City of Atlanta, Georgia.
- (d) **“Drop”** shall mean the City of Atlanta, Firefighters Deferred Retirement Option Plan.
- (e) **“Drop Account”** shall mean the account established for each DROP participant under Section 3.1.
- (f) **“Eligible Employee”** shall mean any person employed by the City as an “officer or employee” 6.367 of the 1978 Pension Act.
- (g) **“Participant”** shall mean any Eligible Employee who elects to participate in the DROP in accordance with Section 2.2.
- (h) **“Plan Year”** shall mean the 12 month period beginning on any July 1st and ending on the immediately following June 30th.
- (i) **“Pension Fund”** shall mean the 1978 Pension Act, as amended and incorporated in the *City of Atlanta Code and Ordinances*, Article IV, §§ 6-366 through 6-430.

SECTION 483.2 PARTICIPATION

(a) Eligibility to Participate

In lieu of terminating his or her employment with the City as an Eligible Employee, any Eligible Employee actively employed by the City who would be eligible to retire and receive a retirement benefit under Section 6-367 of the 1978

Pension Act may elect to remain employed by the City as an Eligible Employee, defer receipt of such retirement benefit and participate in the DROP.

(b) Election to Participate

- (1) An Eligible Employee who meets the requirements of Section 2.1 shall become a Participant in the DROP by:
 - a. electing to participate in the DROP;
 - b. electing a form of payment for his benefits under the Pension Plan; and
 - c. electing a period of participation in the DROP; provided, however, no Eligible Employee shall be a Participant in the DROP for more than 36 months.
- (2) An Eligible Employee's elections under Section 2.2(a) must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least five business days after they are received by the Board. All elections made under Section 2.2(a) must be made before the Eligible Employee terminates his employment with the City as an Eligible Employee and before he begins to receive a benefit under the Pension Plan. Except as may otherwise be required by the terms of the Pension Fund or any applicable law, all elections made under Section 2.2(a) shall be irrevocable.

(c) Termination of Participation

- (1) A participant in the DROP shall cease to be a Participant in the DROP:
 - a. by electing in writing, in a time and manner determined by the Board, to cease participating in the DROP prior to the end of his period of participation in the DROP as determined under Section 2.2;
 - b. at the end of his period of participation in the DROP as determined under Section 2.2; or
 - c. by terminating his employment with the City as an Eligible Employee. Any election made under clause (i) shall be effecting on the first day of the first calendar month which is at least five business days after it is received by the Board.
- (2) Upon a Participant's termination of participation in the DROP, amounts shall cease to be transferred from the Pension Fund to his or her DROP Account under Section 3.2, and he shall again contribute to the Pension Fund if he is still employed by the City as Eligible Employee and is required to do so under the provisions of the Pension Fund as then in

effect. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of Article IV.

- (3) A Participant's Drop Account shall cease being credited with the investment return determined under Section 3.3 upon his termination of participation in the DROP.
- (4) A Participant who terminates his participation in the DROP under this Section 2.3 shall not be permitted to again become a participant in the DROP.

(d) **Effect of DROP Participation on the Pension Plan**

- (1) Except as provided in Section 4.6 for Participants who become disabled, a Participant's vested accrued benefit under the Retirement Plan shall be determined on the basis of his years of service and highest three consecutive years of salary determined as of the date of his election to participate in the DROP becomes effective. The Participant shall not accrue any additional benefits under the Retirement Plan (except for any additional benefits provided under any cost-of-living adjustments in the Pension Fund and any benefits payable under Section 4.6 for a Participant who becomes disabled) while he is a participant in the DROP.
- (2) A Participant shall not contribute to the Pension Fund while he is a Participant in the DROP. Upon his termination of participation in the DROP, he shall contribute to the Pension Fund in accordance with the provisions of Section 2.3(b).
- (3) No amounts shall be paid to a Participant from the Pension Fund while he is a Participant in the DROP. Unless otherwise specified in the Pension Plan, if a Participant terminates his participation in the DROP other than by terminating his employment with the City as an Eligible Employee, no amounts shall be paid to him from the Retirement Plan until he terminates his employment with the City as an Eligible Employee. Unless otherwise specified in the Pension Plan, amounts transferred from the Pension Fund to the Participant's DROP Account shall be paid directly to the Participant only in accordance with the provisions of the DROP. Any such payment shall not occur prior to the first day of the month coincident with or next following the later of the date the Participant terminates his or her participation in the DROP or the date he terminates his employment with the City as an Eligible Employee.
- (4) Any accumulated sick or vacation leave not utilized upon entering the DROP will remain as eligible leave time for the participant while participating in the DROP. Any unused sick or vacation leave

accumulated while participating in the DROP shall be paid as a lump sum payment without creating any additional benefit under the DROP.

SECTION 483.3

FUNDING

(a) Establishment of DROP Account

- (1) A DROP Account shall be established for each Participant participating in the DROP. A Participant's DROP Account shall consist of either
 - a. Amounts transferred to the DROP under Section 3.2 and
 - b. Earnings on those amounts determined in accordance with the provision of Section 3.3.
- (2) A Participant's DROP Account will not be segregated from the general assets of the Pension Plan; however, it will be separately accounted for in the Retirement Plan's records.

(b) Transfers From Retirement System

- (1) As of the first day of each months of a Participant's period of participation in the DROP, the monthly retirement benefit he or she would have received under the Pension Fund had he or she terminated his or her employment with the City as an Eligible Employee and elected to receive monthly benefit payments under the Pension Fund shall be transferred to his DROP Account. A Participant's period of participation in the DROP shall be determined in accordance with the provision of Section 2.2 and 2.3, but in no event shall it continue past the date he terminates his employment with the City as an Eligible Employee.
- (2) Transfers to a Participant's DROP Account of his monthly benefit payment from the Pension Fund shall cease upon the Participant's death. Any benefit payments which may be due under the Pension Fund on the Participant's death s shall be paid from the Pension Fund in accordance with the form of payment the Participant selected under the Retirement Plan.

(c) Earnings

As of the end of each month a Participant's period of participation in the DROP, interest will be credited on all amounts in his DROP Account as of the last day of

the immediately preceding month. The annual rate of interest will be the rate determined as of the end of the prior Plan Year equal to the greater of:

- (1) 2% less than the actual rate of return on the assets of the Pension Fund(as determined by the Pension Fund's actuary using the standard IRS formula); or
- (2) the lesser of (i) or (ii), as follows:
 - a. 2% less than the assumed return on the assets of the Pension Fund (as determined by the Pension Fund's actuary); or
 - b. the actual rate of return on the assets of the Pension Plan (as determined by the Pension Fund's actuary using the standard IRS formula.)

(d) Statement of Account

Each Participant shall receive quarterly statements in such form as the Board shall determine showing all amounts credited to his or her DROP Account and the interest credited on such accounts. The statements shall also contain such other information as the Board shall determine.

SECTION 483.4

**DISTRIBUTION OF CROP ACCOUNTS ON TERMINATION OF
EMPLOYMENT**

(a) Eligibility for Benefits

A Participant shall receive the balance in his DROP Account in accordance with the provisions of this Article IV upon his termination of employment with the City as an Eligible Employee. NO amounts shall be paid to a Participant from the DROP prior to his termination of employment with the City as an Eligible Employee.

(b) Forfeitures

- (1) If a Participant does not terminate his employment with the City as an Eligible Employee at the end of the period of DROP participation he elected under Section 2.2(a), his DROP Account shall be forfeited and he shall receive only his benefit under the Pension Fund in accordance with the Pension Fund's provisions. The Participant's benefit from the Pension Fund shall commence after his employment as an Eligible Employee is terminated and shall be paid in the form elected by the Participant under "Section 2.2.(a).

- (2) Any amounts forfeited under this Section 4.2 shall be used to reduce future transfers from the Pension Fund to the DROP under Section 3.2.

(c) Form of Distribution

- (1) Unless a Participant elects otherwise, distribution of his or her DROP Account shall be made in a cash lump sum.
- (2) Notwithstanding the preceding, if a Participant dies before his benefit under the DROP commences, his DROP Account shall be paid to his Beneficiary.

(d) Date of Payment of Distribution

- (1) Except as otherwise provided in this Article IV, distribution of a Participant's DROP Account shall begin as soon as administratively practicable following the Participant's termination of employment with the City as an Eligible Employee.
- (2) In lieu of a distribution as described in paragraph (a) above, a Participant may, in accordance with such procedures as the Board shall prescribe, elect to have the distribution of his DROP Account made as of the first day of any month coincident with or following his termination of employment with the City as an Eligible Employee; provided, however, payments shall be made before the distribution date elected by the Participant to the extent necessary to comply with the provision of Section (g).

(e) Proof of Death and Right of Beneficiary or Other Person

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Participant's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

(f) Disability

If a Participant becomes entitled to a disability benefit under Section 6-469(g) of the 1978 Pension Act, he will receive the greater of:

- (1) his benefits under the DROP and the Retirement Plan determined as if he terminated his employment with the City as an Eligible Employee on the date he first became eligible for a disability benefit under the Pension Act; and
- (2) his disability benefit under Section 6-469 of the 1978 Pension Act determined as if he not elected to participate in the DROP.

(g) Distribution Limitation

Notwithstanding any other provisions of this Article IV, all distributions from the DROP shall conform to the regulations issued under Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit provision of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provision that is inconsistent with Section 401(a)(9) of the Internal Revenue Code.

(h) Direct Rollover of Certain Distributions

Notwithstanding any provision of the DROP to the contrary that would otherwise limit a distributee's election under this Section, a distribute may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly by the DROP to an eligible retirement plan specified by the distribute in a direct rollover. The following definitions apply to the terms used in this Section:

- (1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distribute under the DROP, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distribute or the joint lives (or joint life expectancies) of the distribute and the distributee's designated beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, and the portion of any distribution that is not includable in gross income.
- (2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity;
- (3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distribute with regard to the interest of the spouse; and

- (4) “Direct rollover” means a payment by the DROP to the eligible retirement plan specified by the distributee. The direct rollover may be accomplished by any reasonable means chosen by the Board.

SECTION 483.5

ADMINISTRATION OF THE DROP

(a) Board Administers the DROP

The Board shall administer the DROP without compensation, carry out the provisions of the DROP and oversee the investment of the DROP’s assets. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual’s eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a Participant in the DROP). The determination of any disputed question shall be conclusive and final to the extent permitted by applicable law. The Board may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement which may be adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A member of the Board may not vote on any question relating exclusively to his or her self.

(b) Individual Accounts, Records and Reports

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Participant’s DROP account, and the Board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distribute, or cause to be prepared and distributed, to Participant and other individuals or to be filed with the appropriate governmental agencies, as the case may be, all necessary description, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code and any other applicable laws.

(c) Limitation of Liability

- (1) The members of the Board shall not incur any liability individually or on behalf of any other individuals or any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (2) Neither the Board nor any member of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or any actuary, and on all opinions of counsel. The

Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

SECTION 483.6

GENERAL PROVISIONS

(a) Amendment of DROP

The Board reserves the right at any time and from the time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, excepted as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of any Participant's DROP Account or which creates any cost or liability to the City.

(b) Information

Each Participant, Beneficiary or other person entitled to a benefit before any benefit shall be payable to him or her on his or her account under the DROP, shall file with the Board the information that it shall require to establish his or her rights and benefits under the DROP.

(c) Prevention of Escheat

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefore within three months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefore except that, in the event such person or his beneficiary later notifies the Board of this whereabouts and requests the payment or payments due to him or her under the DROP, the amount so applied shall be paid to him or her in accordance with the provisions of the DROP.

(d) Written Election, Notification

- (a1) Any elections or designations made by an Eligible Employee, Participant, former Participant or Beneficiary pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all similarly situated. The Board reserves the right to change from time to time the time and manner for making notifications, elections or designations by Eligible Employees, Participants, former Participants and Beneficiaries under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (2) Each Participant or former Participant who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to an Eligible Employee, Participant, former Participant or Beneficiary hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Participant, former Participant or Beneficiary notifies the Board of his address.

(e) Benefits Not Guaranteed

All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

(f) Administrative Expenses

The Board may pay the reasonable and necessary expenses of administering the DROP, including, but not limited to, expenses incurred in connection with investing the DROP's assets, from the funds of the DROP to the extent they are not otherwise paid by the CITY.

(g) Construction

- (1) The DROP shall be construed, regulated and administered under the laws of Georgia and the City, except where other applicable law controls.
- (2) All references beginning with §§ 367.1 – 367.6 shall be deemed to refer to the DROP unless otherwise specified.

- (3) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

EXHIBIT B

CITY OF ATLANTA, POLICE OFFICERS DEFERRED RETIREMENT OPTION PLAN

SECTION 334.1

DEFINITIONS

Defined terms in section 334.1 are applicable only to section 334 in its entirety.

- (a) **“Beneficiary”** shall mean any person, persons or entity entitled to receive a benefit under the Pension Fund in the event of the Participant’s death.
- (b) **“Board”** shall mean the Board of the City of Atlanta, Firefighters Pension Fund.
- (c) **“City”** shall mean the City of Atlanta, Georgia.
- (d) **“Drop”** shall mean the City of Atlanta, Firefighters Deferred Retirement Option Plan.
- (e) **“Drop Account”** shall mean the account established for each DROP participant under Section 3.1.
- (f) **“Eligible Employee”** shall mean any person employed by the City as an “officer or employee” 6-221 of the 1978 Pension Act.
- (g) **“Participant”** shall mean any Eligible Employee who elects to participate in the DROP in accordance with Section 2.2.
- (h) **“Plan Year”** shall mean the 12 month period beginning on any July 1st and ending on the immediately following June 30th.
- (i) **“Pension Fund”** shall mean the 1978 Pension Act, as amended and incorporated in the *City of Atlanta Code and Ordinances*, Article IV, §§ 6-221 through 6-333.

SECTION 483.2 PARTICIPATION

(a) Eligibility to Participate

In lieu of terminating his or her employment with the City as an Eligible Employee, any Eligible Employee actively employed by the City who would be eligible to retire and receive a retirement benefit under Section 6-221 of the 1978

Pension Act may elect to remain employed by the City as an Eligible Employee, defer receipt of such retirement benefit and participate in the DROP.

(b) Election to Participate

- (1) An Eligible Employee who meets the requirements of Section 2.1 shall become a Participant in the DROP by:
 - a. electing to participate in the DROP;
 - b. electing a form of payment for his benefits under the Pension Plan; and
 - c. electing a period of participation in the DROP; provided, however, no Eligible Employee shall be a Participant in the DROP for more than 36 months.
- (2) An Eligible Employee's elections under Section 2.2(a) must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least five business days after they are received by the Board. All elections made under Section 2.2(a) must be made before the Eligible Employee terminates his employment with the City as an Eligible Employee and before he begins to receive a benefit under the Pension Plan. Except as may otherwise be required by the terms of the Pension Fund or any applicable law, all elections made under Section 2.2(a) shall be irrevocable.

(c) Termination of Participation

- (1) A participant in the DROP shall cease to be a Participant in the DROP:
 - a. by electing in writing, in a time and manner determined by the Board, to cease participating in the DROP prior to the end of his period of participation in the DROP as determined under Section 2.2;
 - b. at the end of his period of participation in the DROP as determined under Section 2.2; or
 - c. by terminating his employment with the City as an Eligible Employee. Any election made under clause (i) shall be effecting on the first day of the first calendar month which is at least five business days after it is received by the Board.
- (2) Upon a Participant's termination of participation in the DROP, amounts shall cease to be transferred from the Pension Fund to his or her DROP Account under Section 3.2, and he shall again contribute to the Pension Fund if he is still employed by the City as Eligible Employee and is required to do so under the provisions of the Pension Fund as then in

effect. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of Article IV.

- (3) A Participant's Drop Account shall cease being credited with the investment return determined under Section 3.3 upon his termination of participation in the DROP.
- (4) A Participant who terminates his participation in the DROP under this Section 2.3 shall not be permitted to again become a participant in the DROP.

(d) **Effect of DROP Participation on the Pension Plan**

- (1) Except as provided in Section 4.6 for Participants who become disabled, a Participant's vested accrued benefit under the Retirement Plan shall be determined on the basis of his years of service and highest three consecutive years of salary determined as of the date of his election to participate in the DROP becomes effective. The Participant shall not accrue any additional benefits under the Retirement Plan (except for any additional benefits provided under any cost-of-living adjustments in the Pension Fund and any benefits payable under Section 4.6 for a Participant who becomes disabled) while he is a participant in the DROP.
- (2) A Participant shall not contribute to the Pension Fund while he is a Participant in the DROP. Upon his termination of participation in the DROP, he shall contribute to the Pension Fund in accordance with the provisions of Section 2.3(b).
- (3) No amounts shall be paid to a Participant from the Pension Fund while he is a Participant in the DROP. Unless otherwise specified in the Pension Plan, if a Participant terminates his participation in the DROP other than by terminating his employment with the City as an Eligible Employee, no amounts shall be paid to him from the Retirement Plan until he terminates his employment with the City as an Eligible Employee. Unless otherwise specified in the Pension Plan, amounts transferred from the Pension Fund to the Participant's DROP Account shall be paid directly to the Participant only in accordance with the provisions of the DROP. Any such payment shall not occur prior to the first day of the month coincident with or next following the later of the date the Participant terminates his or her participation in the DROP or the date he terminates his employment with the City as an Eligible Employee.
- (4) Any accumulated sick or vacation leave not utilized upon entering the DROP will remain as eligible leave time for the participant while participating in the DROP. Any unused sick or vacation leave

accumulated while participating in the DROP shall be paid as a lump sum payment without creating any additional benefit under the DROP.

SECTION 483.3

FUNDING

(a) Establishment of DROP Account

- (1) A DROP Account shall be established for each Participant participating in the DROP. A Participant's DROP Account shall consist of either
 - a. Amounts transferred to the DROP under Section 3.2 and
 - b. Earnings on those amounts determined in accordance with the provision of Section 3.3.
- (2) A Participant's DROP Account will not be segregated from the general assets of the Pension Plan; however, it will be separately accounted for in the Retirement Plan's records.

(b) Transfers From Retirement System

- (1) As of the first day of each months of a Participant's period of participation in the DROP, the monthly retirement benefit he or she would have received under the Pension Fund had he or she terminated his or her employment with the City as an Eligible Employee and elected to receive monthly benefit payments under the Pension Fund shall be transferred to his DROP Account. A Participant's period of participation in the DROP shall be determined in accordance with the provision of Section 2.2 and 2.3, but in no event shall it continue past the date he terminates his employment with the City as an Eligible Employee.
- (2) Transfers to a Participant's DROP Account of his monthly benefit payment from the Pension Fund shall cease upon the Participant's death. Any benefit payments which may be due under the Pension Fund on the Participant's death s shall be paid from the Pension Fund in accordance with the form of payment the Participant selected under the Retirement Plan.

(c) Earnings

As of the end of each month a Participant's period of participation in the DROP, interest will be credited on all amounts in his DROP Account as of the last day of

the immediately preceding month. The annual rate of interest will be the rate determined as of the end of the prior Plan Year equal to the greater of:

- (1) 2% less than the actual rate of return on the assets of the Pension Fund (as determined by the Pension Fund's actuary using the standard IRS formula); or
- (2) the lesser of (i) or (ii), as follows:
 - a. 2% less than the assumed return on the assets of the Pension Fund (as determined by the Pension Fund's actuary); or
 - b. the actual rate of return on the assets of the Pension Plan (as determined by the Pension Fund's actuary using the standard IRS formula.)

(d) Statement of Account

Each Participant shall receive quarterly statements in such form as the Board shall determine showing all amounts credited to his or her DROP Account and the interest credited on such accounts. The statements shall also contain such other information as the Board shall determine.

SECTION 483.4

**DISTRIBUTION OF DROP ACCOUNTS ON TERMINATION OF
EMPLOYMENT**

(a) Eligibility for Benefits

A Participant shall receive the balance in his DROP Account in accordance with the provisions of this Article IV upon his termination of employment with the City as an Eligible Employee. NO amounts shall be paid to a Participant from the DROP prior to his termination of employment with the City as an Eligible Employee.

(b) Forfeitures

- (1) If a Participant does not terminate his employment with the City as an Eligible Employee at the end of the period of DROP participation he elected under Section 2.2(a), his DROP Account shall be forfeited and he shall receive only his benefit under the Pension Fund in accordance with the Pension Fund's provisions. The Participant's benefit from the Pension Fund shall commence after his employment as an Eligible Employee is terminated and shall be paid in the form elected by the Participant under "Section 2.2.(a).

- (2) Any amounts forfeited under this Section 4.2 shall be used to reduce future transfers from the Pension Fund to the DROP under Section 3.2.

(c) Form of Distribution

- (1) Unless a Participant elects otherwise, distribution of his or her DROP Account shall be made in a cash lump sum.
- (2) Notwithstanding the preceding, if a Participant dies before his benefit under the DROP commences, his DROP Account shall be paid to his Beneficiary.

(d) Date of Payment of Distribution

- (1) Except as otherwise provided in this Article IV, distribution of a Participant's DROP Account shall begin as soon as administratively practicable following the Participant's termination of employment with the City as an Eligible Employee.
- (2) In lieu of a distribution as described in paragraph (a) above, a Participant may, in accordance with such procedures as the Board shall prescribe, elect to have the distribution of his DROP Account made as of the first day of any month coincident with or following his termination of employment with the City as an Eligible Employee; provided, however, payments shall be made before the distribution date elected by the Participant to the extent necessary to comply with the provision of Section (g).

(e) Proof of Death and Right of Beneficiary or Other Person

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Participant's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

(f) Disability

If a Participant becomes entitled to a disability benefit under Section 6-311(g) a and b of the 1978 Pension Act, he will receive the greater of:

- (1) his benefits under the DROP and the Retirement Plan determined as if he terminated his employment with the City as an Eligible Employee on the date he first became eligible for a disability benefit under the Pension Act; and
- (2) his disability benefit under Section 6-367 of the 1978 Pension Act determined as if he not elected to participate in the DROP.

(g) Distribution Limitation

Notwithstanding any other provisions of this Article IV, all distributions from the DROP shall conform to the regulations issued under Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit provision of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provision that is inconsistent with Section 401(a)(9) of the Internal Revenue Code.

(h) Direct Rollover of Certain Distributions

Notwithstanding any provision of the DROP to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly by the DROP to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to the terms used in this Section:

- (1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee under the DROP, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, and the portion of any distribution that is not includable in gross income.
- (2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity;
- (3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse; and

- (4) “Direct rollover” means a payment by the DROP to the eligible retirement plan specified by the distributee. The direct rollover may be accomplished by any reasonable means chosen by the Board.

SECTION 483.5

ADMINISTRATION OF THE DROP

(a) Board Administers the DROP

The Board shall administer the DROP without compensation, carry out the provisions of the DROP and oversee the investment of the DROP’s assets. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual’s eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a Participant in the DROP). The determination of any disputed question shall be conclusive and final to the extent permitted by applicable law. The Board may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement which may be adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A member of the Board may not vote on any question relating exclusively to his or her self.

(b) Individual Accounts, Records and Reports

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Participant’s DROP account, and the Board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distribute, or cause to be prepared and distributed, to Participant and other individuals or to be filed with the appropriate governmental agencies, as the case may be, all necessary description, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code and any other applicable laws.

(c) Limitation of Liability

- (1) The members of the Board shall not incur any liability individually or on behalf of any other individuals or any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (2) Neither the Board nor any member of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or any actuary, and on all opinions of counsel. The

Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

SECTION 483.6

GENERAL PROVISIONS

(a) Amendment of DROP

The Board reserves the right at any time and from the time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, excepted as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of any Participant's DROP Account or which creates any cost or liability to the City.

(b) Information

Each Participant, Beneficiary or other person entitled to a benefit before any benefit shall be payable to him or her on his or her account under the DROP, shall file with the Board the information that it shall require to establish his or her rights and benefits under the DROP.

(c) Prevention of Escheat

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefore within three months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefore except that, in the event such person or his beneficiary later notifies the Board of this whereabouts and requests the payment or payments due to him or her under the DROP, the amount so applied shall be paid to him or her in accordance with the provisions of the DROP.

(d) Written Election, Notification

- (a1) Any elections or designations made by an Eligible Employee, Participant, former Participant or Beneficiary pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all similarly situated. The Board reserves the right to change from time to time the time and manner for making notifications, elections or designations by Eligible Employees, Participants, former Participants and Beneficiaries under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (2) Each Participant or former Participant who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to an Eligible Employee, Participant, former Participant or Beneficiary hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Participant, former Participant or Beneficiary notifies the Board of his address.

(e) Benefits Not Guaranteed

All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

(f) Administrative Expenses

The Board may pay the reasonable and necessary expenses of administering the DROP, including, but not limited to, expenses incurred in connection with investing the DROP's assets, from the funds of the DROP to the extent they are not otherwise paid by the CITY.

(g) Construction

- (1) The DROP shall be construed, regulated and administered under the laws of Georgia and the City, except where other applicable law controls.
- (2) All references beginning with §§ 367.1 – 367.6 shall be deemed to refer to the DROP unless otherwise specified.

- (3) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: LaShawn Gardiner

Contact Number: 404-330-6449

Originating Department: Department of Finance

Committee(s) of Purview: Finance/ Executive Committee

Chief of Staff Deadline: April 9, 2008

Anticipated Committee Meeting Date(s): April 29-30, 2008

Anticipated Full Council Date: May 5, 2008

Legislative Counsel's Signature: [Signature] / J. T. Tison (SB)

Commissioner Signature: E. Raines 4/9/08

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE AUTHORIZING THE CHIEF FINANCIAL OFFICER TO ENGAGE ON BEHALF OF THE CITY OF ATLANTA TO ESTABLISH AND IMPLEMENT A COST NEUTRAL DEFERRED RETIREMENT OPTION RETIREMENT PLAN AS AN ADDITIONAL BENEFIT FOR THE MEMBERS OF THE CITY OF ATLANTA FIREFIGHTER'S PENSION FUND AND THE CITY OF ATLANTA POLICE OFFICERS PENSION FUND; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any):

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____

(date)

(date)

Received by Mayor's Office: Amc 4/9/08 Reviewed by: [Signature]

(date)

(date)

Submitted to Council: _____

(date)